C.L.A.I.M.

County Lead Agency Implementation Meeting

For

The Substance Abuse and Crime Prevention Act of 2000 (SACPA)

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Proceedings

First Day

David Deitch, Ph.D, Director of the Center for Addiction Research and Training at the University of California at San Diego (UCSD), opened the third County Lead Agency Implementation Meeting (CLAIM) noting the achievements so far in implementing Proposition 36. "Certainly, thus far, we've had fantastic achievement. We know for a fact that we've been successful in salvaging lives. We know for a fact that we've reduced risks to public safety. And we know for a fact that we've reduced many public health risks. What we face is the question of whether we can continue to do this within the current climate of great fiscal crisis and fiscal restraint." He introduced **Beth Ruyak**, a Sacramento television personality, who would serve as emcee for the conference sessions. She, in turn, introduced **Kathryn P. Jett**, Director of the California Department of Alcohol and Drug Programs (ADP).

Jett called attention to those working behind the scenes at UCSD and the ADP Office of Criminal Justice Collaboration (OCJC). She gave special acknowledgement to The California Endowment, which has underwritten the expense of this and other Proposition 36 conferences, and thanked the exhibitors. She also noted the presence of many people from southern California who traveled to Sacramento despite the fires ravaging that part of the state, saying this shows the resilience of the California population. Sacramento is now engaged in the transition from the Davis administration to the Schwarzenegger Administration, with the swearing-in of the new Governor scheduled for November 17, 2003. "Normally, a change in administration is stretched over a period of about two months, and this one is taking place in a much shorter time,"

she said, emphasizing that the normal level of work will continue in ADP during the transition period.

Jett said the most important issues getting attention at this time are the allocation of Proposition 36 funds and the University of California at Los Angeles (UCLA) evaluation. "A number of things have come to our attention involving counties that are unable to spend their money and counties that are actually running out of money and cannot support the caseloads coming in," she said. The State's fiscal advisory group and the Proposition 36 Statewide Advisory Group are looking at the allocation formula; and, while there will be no changes in the current year allocations, changes are anticipated in allocations for the coming year. "What we're looking at is an allocation formula that will track caseloads. So if your county is having difficulties, or does not have an active collaborative, this is the time to ask for technical assistance," she said.

Jett explained that 50 percent of the current formula is based on the standard allocation methodology, which is weighted toward the size of the population in a county. The balance is weighted 25 percent on arrests and 25 percent on the general treatment caseloads. Used in this methodology is the general caseloads for the county, whether Proposition 36 cases or otherwise. Now that we have a group of Proposition 36 clients that we can identify in your county, it is appropriate to shift from general caseloads to P36 caseload."

"If your system isn't strongly moving people through, this is the time to review your processes. We'll be looking at data entered into the California Alcohol & Drug Data System (CADDS) to see how many dollars should go to your county." She pointed out that OCJC would be providing more information on this process.

Jett said another major issue on the horizon is the credentialing of counselors. As Proposition 36 implementation began, the State was criticized for not having a standard counselor credentialing process. "We finally have a proposed package that will help us to account for all counselors in the state achieving certification in five years," she said. "That [promulgation of the] package [for early next year] is probably one of the first things we will be talking about with the new administration." Another area for action soon is adopting new regulations to define various modalities of treatment, she continued. "We are looking at modalities such as outpatient, day care, and residential services. The new regulation package will better describe the level of services one will receive in these various programs. So if you refer someone to an outpatient or day treatment or residential program you will know what service you're purchasing."

Jett concluded with an update on how California's Proposition 36 is being viewed elsewhere in the country. "I reported a year or two ago that people in Washington thought California had legalized drugs. I've been back there three more times and they've been to California a number of times; and, I think we're starting to turn the corner on this. They see that what we're really trying to do in

California is set up as close to a drug court system as possible, that we are dedicated court calendars and working with probation, judges and law enforcement together to assure that clients stay in treatment.

She went on to review some statistics from the first year of implementation of Proposition 36, from July 2001 through June 2002, data drawn from the evaluation conducted by UCLA. The rate of those who showed up for treatment was 69 percent. "I think 69 percent is a very realistic number and a very healthy statistic for the first year of implementation." Using slides, she presented other numbers from the first year of implementation, including:

- Of the 53,697 offenders eligible, 44,043 opted into Proposition 36 and 9,654 either went to jail or into some other diversion programs.
- Of the 44,043 who went through an assessment, 37,469 went into treatment.
- A research team is looking at the 7,026 who did not go into treatment to find out where they did go.
- The first-year study has shown that methamphetamine was the drug of choice for 50.2 percent of the Proposition 36 cases.
- Others included 14.5 per cent crack/cocaine, 11.7 percent marijuana, 11 percent heroin, 10 percent alcohol, and 1.7 percent other drugs.

"This should be encouraging for our law enforcement partners," Jett commented. "Methamphetamine addicts are the people who are associated with a lot of the violent crime and street crime." Another slide showed the length of time of addiction of Proposition 36 cases. Methamphetamine addicts had been addicted for 11 to 21 years—"that's a lot of time on the streets." She said the most stunning statistic in her view was the finding that 55.2 percent of the offenders had never been in treatment before. Another 26.5 percent had been in one previous treatment, and 9.9 percent had been in treatment twice. "Many say this is the first time anyone ever offered them help with their addiction," Jett said.

The first-year evaluation, she concluded, has indicated there is much to gain in retention rates by placing probation, treatment and assessment staff at the same location, and allowing walk-in clients. "This requires only one visit to complete an assessment (preferably at the courthouse). Another advantage is using the drug court approach with a designated court calendar.

Before closing, Jett referred to the uncertain future of her position in Sacramento with the impending change of governors. She said her own work on the implementation of Proposition 36 has been "one of the highlights and joys of my career."

Del Sayles-Owen, Deputy Director of the ADP OCJC, reviewed activities of the past year. She noted that State regulations required submission of county plans

by May 1 of each year. The plan now is to issue guidelines on February 1 of 2004 giving counties 90 days instead of the typical 60 days to complete their county plans. This is in response to a recommendation by stakeholders. Also, training on the new county plan guidelines will be offered during the Making It Work! conference in San Diego February 4, 5, and 6, 2004. Several counties have been asked to contribute ideas for changes in the procedures for completing and submitting the plan. Also, at the workshop on the Substance Abuse and Crime Prevention Act Reporting Information System (SRIS) at the CLAIM conference, suggestions for improvement were solicited. In addition to issuing guidelines for county plans at an early date, preliminary allocations for the 2004-2005 Fiscal Year will be issued early--in February instead of March.

ADP will need to promulgate emergency regulations to make changes in the allocation formula; but, it is hoped that preliminary allocations can be released to help with local planning even before regulations are formally adopted. She also noted that the Health System Research (HSR) with funding from the Federal Center for Substance Abuse Treatment (CSAT) would be creating annual summaries of the 58 county plans; moreover, the summary of the 2002-2003 Fiscal Year (FY) plans is available on the ADP Web-site. "Although the number of anticipated referrals fell slightly from 2001-2002 FY estimates, the commitment of SACPA funds increased dramatically," she said. "In 2001- 2002 FY, counties budgeted about 58 percent of their available funds, as compared to 86 percent in 2002-2003 FY." She pointed out that Dr. William Ford of HSR would be doing a workshop at this conference, and would have very preliminary results of an analysis of 2003-2004 FY county plans; he will also be sharing the outcomes. To date, of the 2003-2004 FY county plans, 44 have been approved. "We're seeing that several counties will go into year-4 with no reserves remaining, and we also know that some counties are modifying their programs in order to live within their allocations."

Sayles-Owen reported on several new policies, which are available on the ADP Web-site:

- All County Lead Agency (ACLA) 03-04: Counties had asked about the allowability of certain court costs. The new policy clarifies what is meant by "costs made necessary by the Act" when assessing the appropriateness of court costs. Activities that would have been necessary regardless of SACPA court activity will not be allowed.
- ACLA 03-05: This policy letter encourages SACPA lead agencies to develop communications advising court and parole authorities that continuation of methadone maintenance can be a necessary component of an effective treatment plan for a client, but can be discontinued only after consultation with the treatment provider's medical staff.
- ACLA 03-06: This letter contains frequently asked questions in three areas—offender eligibility, assessment and treatment services, and allowable costs.

Turning to coordination of services, Sayles-Owen said her department has been working with the State Department of Rehabilitation in an effort to improve service delivery linkages. She called attention to a workshop at this conference at which a representative of the Department of Rehabilitation would talk about ways to access services. Also, a special subcommittee of the Statewide Advisory Group has been focusing on coordination of parolee services. "We've redesigned the system so that referrals now come from the assigned regional parole agent instead of Sacramento. This has increased the number of parolees in treatment." The Subcommittee also has been working to improve the interface with the Substance Abuse Service Coordination Agencies (SASCAs), and is piloting an improvement in mental health screening and information procedures,--the subject of another workshop at this conference.

In the area of county reporting, she continued, there has been a validation of the SRIS. The goal was to make improvements in the system, using information collected from the users. The department contracted with California State University at Bakersfield (CSU Bakersfield) to lead a review involving 15 focus counties. "The outcome of this effort is a more user-friendly SRIS users' manual and standardized definitions of critical fields. The SRIS Users' Manual was rewritten to improve its value for you, both in terms of its function and its ease of use." CSU Bakersfield carried out a series of training sessions in December in Fresno, Redding, San Francisco, and Santa Ana. As a result of those sessions, CSU Bakersfield has made a number of recommendations for improving SRIS.

Regarding audits, Sayles-Owen reported that 55 audit reports have been issued for the FY 2000-01 and 13 for FY 2001-02. "We have noted a number of major findings, primarily in the area of questionable application of administrative overhead, provider invoices that do not reconcile to SACPA clients served, and some inappropriate handling of remodeling costs." She said ADP has worked with County Alcohol and Drug Program Administrators Association of California (CADPAAC), the administrators association, to convene an audit committee to clarify the nature and scope of audits and assess any potential improvements to the audit process. "To date, the committee has reviewed the draft audit appeal regulations which would codify many of the processes we use today in the audit process," she said. "The committee has also asked ADP to reconsider revamping the audit assistance guide which many counties tell us they found useful in the past." ADP also will be issuing clarifications of when funds are to be returned to the local trust fund and when they should be returned to the State trust fund. She also called attention to workshops at this conference which will provide information and assistance on audit issues.

Sayles-Owen said the second Annual Report to the Legislature on Proposition 36 implementation is expected to be ready for submission by the end of calendar year 2003. It will cover the first full year of implementation (FY 2001-02). Data

from the UCLA Evaluation will be used to augment the report. Unlike the UCLA report, there will be information about county expenditures.

She called attention to the Proceedings of the February 2003 "Making It Work!" conference which are available on the ADP Web-site; she also commented that the next "Making It Work!" conference will be held in San Diego February 4-6, 2004. She then noted that the UCLA Addiction Technology Transfer Center (ATTC) has received federal funding to provide focus technical assistance in support of Proposition 36 implementation. "We're very appreciative in California for all of the assistance the Federal Government has given us." UCLA has responded to individual county requests for technical assistance, and UCSD has received a grant from The California Endowment to provide technical assistance to counties. UCSD also is finalizing its technical assistance video project, to assist counties that have difficulty sending people to different sites. She added that ADP is trying to provide good technical assistance to the counties and hopes to have more staff going on-site to work with members of county teams. "We are trying to integrate some of our Drug Court work and Proposition 36 staffing, so that you are dealing with one analyst for both programs."

In conclusion, she said ADP is committed to assuring there is collaboration among all stakeholders and organizations during this year's planning process. "It is important and imperative that collaboration and information-sharing, vertically and horizontally, continue at both State and local levels."

In response to a question from the audience, Sayles-Owen clarified that ADP looked at the Year 1 CADDS data and found there were many inconsistencies in reporting; thus, the data would not be a good reflection of actual caseloads. The department is now collecting data from Year 2, which will be used in the 2004-05 FY allocations.

Another asked if there had been any planning for funding after the FY 2005-06 expiration date. Sayles-Owen said this timely subject is on the agenda of the Statewide Advisory Group. "As you well know, it will take an act of the Legislature and signing by the Governor in order to continue the appropriation provided in Proposition 36. We cannot predict, given the fiscal situation in California, what those decisions will look like. What we want to do is have the best data possible from the evaluation of the program, clearly demonstrating its cost benefit. That will help confirm the discussion for future funding." Kathryn P. Jett added that she thinks it is particularly important for counties to work with their law enforcement agencies on this issue. They continued to arrest and question whether this program is being effective. So it's important that you and your collaboratives reach out to your sheriffs and your police chiefs so that they understand what is really happening. They are seeing a different audience—the several thousand who drop out. You are seeing the 30,000 who are opting in. You need to go out and get law enforcement involved now so they understand the benefits of what you are doing."

The remainder of the morning on October 28 was devoted to workshop sessions on Criminal Justice, Fiscal and Administrative Issues, Health Insurance Portability and Accountability Act (HIPAA), Engagement Strategies for the Underserved, Methadone Treatment Rationale and Content, and SRIS Training.

At the luncheon session, five successful graduates of Proposition 36 treatment programs in the Sacramento area gave brief accounts of their experience and what they had learned about the process of sustained recovery.

Mary P. described how she was 36 years old, married with children, holding a degree in merchandising and experience managing stores, when her life changed dramatically. After a divorce and a deep depression, she began doing drugs—mainly methamphetamine—and, at the age of 45 in 2001, was arrested for illegal possession; she chose Proposition 36 rather than go to jail. She spent three months in outpatient treatment and then entered a residential program for 90 days. She became interested in working with recovering addicts, and completed the California Association of Addiction Recovery Resources (CAARR) training program. She has been working for a year at the same recovery program where she found help. She has nearly completed training as a certified recovery specialist. "Prop. 36 saved my life. The day before I was arrested I felt like I was going to die and didn't know what to do about it." She thanked Judge Ransom for being a "cheerleader" for her during her recovery.

Anthony B. told of beginning to use heroin at the age of 13 but hid his drug problem well enough to be running businesses as an adult. He said he believes people who use the information and opportunities provided by Proposition 36 can overcome their addiction. "Life for me is like being reborn…I'm amazed at how beautiful a day can be." He recalled that as a drug-user he began each day with a need for drugs to "get well." "Now, the first thing on my mind is a cup of coffee and a doughnut to start my day." He also praised Judge Ransom of Sacramento for his help, and named others who had helped him during his treatment, including a probation officer who "scared me into doing the right thing." He said he has been clean for 11 months and expects to graduate from his Proposition 36 program in December. He explained that this is his second time around Under Proposition 36. "The first time I didn't even make it for two weeks. I wasn't ready." He hopes to return to school and eventually work as a drug counselor.

Charles M. told how his childhood dreams of going to college and being a success in life had faded once he started using drugs and alcohol, which put him behind bars for numerous years. "Proposition 36 has changed my life," he said. "I didn't ask for my old life back. That would just mean more prison time. What I got was a new life, where I'm a responsible member of society." He said the 12-step program he entered through Proposition 36 had helped him get to know himself. "I had been running from myself. I did not know who I was." Today he

has a job and a relationship with his family, and each day thanks his Higher Power for his new life. "On a daily basis I try to give back. When I am asked to chair a meeting or tell my story to another addict, I do that." He referred to the movie "Pay It Forward" and the principle that the best way to express gratitude for help one has received is to help another.

Sharee M. said she had been in and out of jail since she started using drugs at the age of 13 and becoming pregnant with her first child at age 16. Her four children were raised without a mother in their lives, she said. But Proposition 36 had given her a new way of life—respect for herself, respect for authority figures, and the help of 12-step meetings. Her ambition to become a lawyer was never fulfilled because of her drug use; however, the ambition survived and she will soon enter training to become a paralegal. "I'm very grateful to the people who voted in Proposition 36 and to my counselors and Judge Ransom…I'm grateful to the people at the probation department who ask what they can do to help us when we're struggling." She said her children are back in her life, and she is trying one day at a time to be a good mother. She also is a speaker at the Job Corps, telling young people why it is important not to use drugs.

Scott J. recalled that he had sent for information about Proposition 38 to help him deal with an issue under the "three strikes" law and was, by mistake, sent information about Proposition 36. This led him to take advantage of the opportunity to enter drug treatment which has given him the opportunity to "live life on life's terms." Now clean and sober for more than two years, he said he didn't know that life could be so good. "Between the age of 12 and 44, I was lost and stuck on stupid. I gave 13 years of my life to California Department of Corrections (CDC) and the feds, and it took me a long time to realize that I was lost." Under Proposition 36, he received the tools to be a responsible, productive citizen—"something I didn't know anything about." He was impressed by the fact that, when he told a prospective employer about his history, he found that the employer was willing to give him a job. "Now I'm driving a company vehicle and making good money…Now my life is my family… I can never repay Prop. 36 for what I've gotten out of it."

The panel members were asked how they managed their recovery on a day-to-day basis. Among the responses: Working with a sponsor…going to lots of meetings…working with newcomers…saying prayers of gratitude mornings and evenings…remembering that others still need help that a clean and sober recovering addict can provide…speaking at meetings…praying for help and guidance…avoiding the people, places and things associated with former drug use…continuing to work the 12 Steps…reading meditations every morning.

Re-Evaluating How We Evaluate Addiction Treatment

Due to air traffic disruptions caused by the weather, Thomas McLellan was unable to appear to deliver a scheduled lecture on "Lessons from Chronic Care

Regarding Addiction Relapse." Dr. Deitch substituted for him, with a lecture on "Re-Evaluating How We Evaluate Addiction Treatment."

Dr. Deitch posed the question: "Has the way we have evaluated and thought about addiction treatment actually done service to advancing more efficient treatments? And are there—and should there be—marked similarities between the way we think about addiction and the way we think about chronic disease?" One prevalent idea, he said, is that there should be a "discrete, acute episode of treatment," and the outcome should be described with such language as "cure" or "fix." He noted that the recovering addicts on the luncheon panel had used words like "in recovery" and "managing their recovery" as opposed to their illness being "over" or "cured." He pointed out that the concept of addiction as a chronic disease dates back more than 200 years. "It was not until we got into the 1900s that the whole idea of recovery management—a need for lifestyle change and continuity of effort—started to fade away, giving rise to the idea of acute treatment and "fixing" the addict.

He gave an example of how an evaluation of treatment can be based on misunderstanding. Early in the last century Dr. Charles Towns began treating alcoholics and addicts at the Towns Hospital in New York and became widely known as someone who had devised a life-saving "cure. " He was administering epicac, castor oil, and other medications in massive doses to produce severe nausea and throwing up and overall misery for the patient. When asked how he knew this was curing his patients, Dr. Towns responded that it was simple: "Not a single one of them has ever come back." This story can be a starting point to think about how treatment may be evaluated.

Dr. Deitch reviewed various approaches to addiction treatment today, including acute versus continuing care, and various models or strategies that have been implemented. He recalled how addiction treatment in earlier times developed around the idea that long-term recovery would depend on how one chose to live after undergoing acute treatment. "Then three things began to happen. Much of the leadership began to die and the models weren't transferred, treatment began to be offered for a price, and, the idea of "cures" came back. "We lost what had been known for two-hundred years up to that point, which is that recovery is not an acute episode, it takes time."

One new model was called "rehab," he continued. A person's treatment might include medication and other services. The expectation is that he is better than he was before when he comes out of this acute treatment episode. After the treatment he is no longer a substance-using patient. Dr. Deitch quoted Dr. Tom McLellan: "For addiction treatment to be worth it, treatment benefits should be sustained following discharge." In other words, "Dr. Deitch said, the prevailing point of view for this kind of "rehab" treatment should last forever, and if it does not, it is not good treatment. Some patients are discharged from this kind of

treatment because they relapse and, thus, are considered not amenable to treatment. Being drug-free would be considered proof of a "cure."

What is known, Dr. Deitch continued, is that the disease of addiction emerges and intensifies through the interaction of different things. One is the infectious agent, the drug. Another is an individual's unique biology, the unique circumstances of his development which produces a vulnerability to the drug. These factors are combined with the social, political, and cultural environments in which the interaction of drug and person occurs. The result is, for some people, a sudden onset of a problem and, for others, a gradual onset. "The question is, what happens after these multiple interactions?"

Dr. Deitch used the treatment of hypertension as a model that can broaden understanding of the issue. Out-of-control blood pressure can be treated with medications which reduce blood pressure, leading to a conclusion that this is an "effective" treatment. However, the Food and Drug Administration (FDA) and scientists who evaluate these medications don't consider what happens to patients if they stop taking the medication, or what happens if they get an inappropriate medication. Where addiction is concerned, however, a patient's return to an old behavior after treatment is considered to be evidence that the treatment didn't work. "That paradox plagues us to this very minute," Deitch said.

He pointed out that science does not predict treatment outcomes based on differences in individuals. Actually, predictors of when treatment will work can be based on patient variables rather than treatment variables, and effectiveness is usually discovered after treatment rather than before. "There have been over 30 different studies comparing inpatient versus residential versus outpatient treatment, all of them done in randomized fashion, and they found no difference in outcomes except cost." He then described some findings comparing treatment results when detoxification precedes outpatient treatment vs. direct admission to outpatient treatment.

- After two weeks, 26 percent of those who went directly into outpatient had dropped out, compared to only 8 percent of those who were "stabilized" or detoxed first.
- After 30 days, the dropout rate for the direct-to-outpatient group had reached 78 percent, while the rate for the pre-stabilized group was 51 percent.
- Similar differences were seen in return to drug use after 14 days, with 41 percent of the direct-to-outpatient group having a positive urinalysis vs. 18 percent for the pre-stabilized group.

Dr. Deitch reviewed the findings of an expensive federal research program called Match. Match studies three different kinds of alcoholism therapy, with a different mechanism of action but each designed to achieve lasting abstinence or improvement in a drinking problem after completion of the therapy. The study

looked at groups given motivational enhancement therapy, cognitive behavioral therapy, and a traditional 12-step approach to recovery. The study followed the subjects for 39 months, and found--to the "immense embarrassment" of the addiction treatment field--that no significant difference in the outcomes existed. All saw erosion over time in the number of subjects remaining abstinent. Dr. Deitch compared this study to another federal study called ALLHAT, evaluating treatments designed to reduce high blood pressure. This study looked at more than 6,000 patients receiving treatment in 60 different locations, and began with three groups receiving three types of medications. When these medications by themselves failed to bring blood pressure down to a significant degree in more than half of the subjects, another therapy was added.

If this were addiction treatment, Dr. Deitch pointed out, it some may presume that more than half of the subjects are not amenable to treatment or resisted treatment and they might have been thrown out. In the hypertension study, however, the findings led to including another therapy in the treatment. Improvement for more than 50 percent of the subjects resulted. Then a third therapy was added, producing even more impressive results. "The notion of studying treatment over time and finding if one kind of treatment is not getting it done then adding something else and continuing to study it over time--I think this is a profound confrontation for all of us in drug abuse treatment. Instead of saying that residential treatment isn't working and sending a person to jail, have we considered adding something to that residential treatment? If the outpatient treatment isn't working, what can we add that might make it work? If a 12-step program isn't working, what can we add that would bring about improvement?"

He also discussed "salt sensitivity" as a factor in producing hypertension when it is combined with social and economic conditions affecting diet. A person "raised on salt" has difficulty maintaining a low-salt diet as treatment for hypertension. Thus environment and lifestyle become factors in recovery management for such individuals. Some politicians may frown on recovery management as part of treatment for drug addiction because it "takes away responsibility" from the person with the problem. "But there's no responsibility taken away when a person uses his asthma medicine or diabetic medicine or high-tension medication," Dr. Deitch declared. "In fact, you're being urged not only to change your lifestyle but to stay in treatment, to keep doing what seems to be helping you." Even some treatment providers don't like the concept of recovery management, seeing it as an "excuse to relapse," Dr. Deitch continued. The challenge to the treatment provider may not be to give the troubled client more of what he had been given before but to give him *more than* what was given before.

These principles are not new, Dr. Deitch said. Lectures from as early as 1810 describe relapse prevention, though not using those words. They talk about what alcohol-dependent people need avoid, such as certain persons, places, moods, and circumstances. These factors were identified as triggers for relapse. "It did not take the literature of 1975 to get us there. We just lost touch with what it

means to manage recovery." He suggested that recovery management might be a better term than "continuing care" to describe what recovering addicts need. The challenge is to do what is possible to help them in their recovery management.

On the subject of treatment goals, Dr. Deitch asked whether those working with addicts have considered whether the treatment being offered is agreeable to them. Is it measurable? "Usually, when we think about a patient not responding, it's not what we're doing, not what our environment is like, not how welcoming we behave, how we try to relate to the person, what kind of induction we do first before we expect to reach treatment outcome goals. We do not think about the burden we put on treatment to achieve those goals when we never even approach the person to induct them into readiness for those treatment strategies and those goals. How do we engage ourselves with continuing care management, with recovery management? Are there ways to do this?"

He pointed out that most first efforts in treating any disease usually fail. Thus, there must be multiple forms of treatment. "If what you're getting from four groups a week in an outpatient clinic isn't enough, maybe we now need to add individual counseling. Or, if individual counseling isn't enough, maybe we need to add group counseling. And, if the two of those aren't enough, maybe we need to add a medication. And if the three of those are not enough, we ask what else we need to add." Further, chronic care urges an attitude of optimism. "Just because this didn't work doesn't mean you can't get better. And optimism about treatment is a curative ingredient all by itself." Further, optimism also produces better client participation. Chronic care helps patients understand their vulnerabilities—what to avoid, how to avoid vulnerabilities.

Finally, he turned to what chronic care can learn from addiction treatment. "One of the first things the recovery world taught hypertension people was that symptoms are not going to get better without changing behavior. Patients will not get better no matter how many medications are offered them unless they understand the behavior that is triggering more and more of the problem. Also, social support and counseling *alone* can improve some symptoms…We now see coronary vascular specialists having groups for their hypertension patients. We see asthma specialists having groups for children relevant to their lifestyle with mutual support for the behaviors they need to worry about." Sometimes it takes a long time to understand what needs to be changed in a lifestyle.

"The notion of recovery management is not just needed, it's realistic…I think we need to devise a whole new technology about recovery management and support…It is one thing to start recovery management, to help people get on the path, but then we have to start rethinking the support networks, the structural networks, the role of the family, and all of those things covered in the term recovery management. It probably is going to mean some day, but not now, restructuring some of the financing that goes on with this problem."

He concluded with an example from the prison treatment effort in California, which provides for compulsory treatment for imprisoned offenders. Induction units are staffed by specialists who are in recovery themselves and can help overcome the resistance to treatment evident among many of these prisoners. Those who went through in-custody treatment and then had as much as 90 days of community-based continuing care have returned to prison at the rate of 15 percent. Those who did not receive treatment returned to prison at a rate of 64 percent. The important factor was the 90 days of continuing care after release. "In data as recent as April 2003, we see a dramatic tipping of the scale beginning to occur," he said. "We have hit an axis where, as more treatment beds were added the return-to-custody rates, not only have been dropping but people are returning at such a low rate that it is possible now to start talking about closing prisons."

Summing up, Deitch said that physiological changes in the brain and the tonicity of the problem means that Proposition 36 clients have a chronic disease, and recovery management is essential for treating chronic disease.

Second Day

Dr. **David Deitch** opened the second day of the conference with a brief review of the activities of the previous day. Referring to the opening presentations by Kathryn P. Jett and Del Sayles-Owen, he called for recognition of the fact that in spite of the uncertainties created by political change in Sacramento and the ongoing fiscal crisis in the state, there are people who are "staying at it and saying let's get the job done." He said there had been lots of participation and sharing of ideas in the breakout sessions. There was a sharing of ideas and cooperative learning in such areas as Health Care Financing Administration (HCFA) requirements, strategies to engage the underserved, the rationale and operating principles for methadone treatment, criminal justice partnerships, SRIS training and audits. Of the five success stories provided by Proposition 36 clients at the lunch session he said: "You might see it written up as data, but there it was—live, unfolding success." His presentation pointed to the need to rethink how addiction treatment is evaluated, and the need to deal with recovery management, as well as acute treatment. Finally, the like-size county breakout sessions showed levels of concern about funding, auditing, outreach and consistency in the courts, the need to rebuild teams, and technical assistance needs at both the clinical and administrative levels.

Kathryn P. Jett returned to the podium and urged conferees to provide feedback that would help set the agenda for future conferences. "Whatever comes up in the budget, whatever happens in the transition, we know this is a five-year project and we're going to give it our all," she said. Naming the San Diego conferences "Making It Work!" reflects this determination, she said. She added

that no matter how much guidance and leadership may come from the State, the real action takes place at then local level. "You are the true problem-solvers." Decisions are made at the State level to serve the best interests of the state as a whole, she pointed out, but those decisions are based on feedback being received from the county teams about such issues as allocation formulas and the flow of funding. "I think we have been diligent in bringing you together roughly every six months in San Diego or Sacramento to have a discussion on how you're doing. You are your best teachers, and we know that."

The intent of the State, she said, is to "keep the eye on the prize." Proposition 36 included a "gift" of $120 million, she pointed out. "It's a gift to do our best with this experiment to teach California and the nation that treatment is of value and that working across systems as we are here today is not only of value but a necessity." She added that the principle to "do no harm" is guiding the creation of new allocation formulas—moving funds from counties that say they can't spend their money to counties that need more money. She said the appearance of five recovering people who spoke at the previous day's luncheon meeting was evidence that the efforts of all who are implementing Proposition 36 are making a difference. At the beginning, she said, people coming into treatment were dazed and wondering what it was all about. Now their progress is evident.

Finally, she said the frustrations felt by many who are trying to "make it work" are simply the result of living in a world of uncertainty. "Looking at this from the State perspective…We come here to learn what the new frustrations are—funding, doubts about funding, difficulties with collaboration. Whenever we leave these meetings we sit down and evaluate whether we are on the right course, whether we have the right priorities, and what we need to get out to you so you will be most effective at the local level." She added that often the best answer to a question is "sitting across from you at your table."

Maintaining Collaboration in Times of Funding Challenges

Susan Bower, Proposition 36 Coordinator for the Health and Human Services Agency of San Diego County, led a panel that brought together representatives of parole, probation, treatment and administration from San Diego and Contra Costa Counties.

Bower said the aim was to demonstrate the diversity that can be seen in modes of collaboration to implement Proposition 36. Panelists from Contra Costa and San Diego Counties would explain how collaboration works in a smaller and a larger county. She pointed out that, in the spirit of collaboration, firefighting teams and equipment from San Diego County had been sent to help fight fires in the Los Angeles area. Now, fires in San Diego County have shown how difficult it can be to get the firefighting resources back home when they're needed. This is an example, she said, of what can happen to collaborations in times of stress

and crisis. “When you have scarce resources, you start focusing on what’s important right now in my county and my community.”

San Diego County for several years had been working on a collaborative reorganization of its criminal justice system to serve drug offenders, making it easier to deal with Proposition 36 at the policy level, she said. “At the policy level we were able to come to some decisions about how we would implement it quickly. We knew each other’s phone numbers off the top of our heads, everything was working great.” At the service delivery level, however, it was another story. “The people in the trenches, the individual probation officers and treatment providers did not know each other’s phone numbers and had to introduce themselves.” At the beginning, people at the service delivery level were “sort of circling the table like tigers,” with treatment providers often wary of the motives of the probation officers. On the probation side, they were as wary of the treatment professionals. After about a year, the situation was reversed. “I started hearing treatment providers say, “Please tell probation to give some consequences to these people.” And I would hear from probation, “Treatment providers keep kicking them out but we’ve got to keep them in treatment.” Now, she said, the players have determined their roles appropriately—a middle ground between the two points of view—and San Diego County has an “incredibly strong” collaboration between treatment and probation. On the other hand, at the policy level, the squeeze on resources is producing a struggle of competing interests. Thus, it is important to talk about both “the beauty spots and the warts” when looking at collaboration; and, it is time to talk about maintaining a partnership even when the partners may be in need of “marital counseling.”

The critical ingredient, Bower declared, is communication. She pointed out that sending a quick note by e-mail can be easy; however, even though it takes time to call someone on the phone, talking to someone can be more expedient than the convenience of e-mail exchanges. Another important factor is having a common goal, she continued. “Kathryn Jett mentioned keeping our eye on the prize. The prize is getting people into treatment and supervising them throughout their treatment, getting folks to be successful in it and finding other options for those for whom it’s not going to work.” This means not retreating to one’s own corner but staying in the middle ground to reach these goals.

Bower introduced five panelists who gave their perspectives on maintaining collaboration.

Chris Henley, Director of Probation for San Diego County, said there are Proposition 36 probation units stationed in each of the county’s four regional courts. There are 17 sworn officers, 13 of them actually monitoring and carrying cases, with about 220 active cases per officer. The functions of these officers are intake, screening, referral to an appropriate treatment provider, and monitoring to report compliance or non-compliance to the court. In San Diego County, he said, collaboration has come to mean not just cooperation but “a

merging and blending of goals." Benefits flow from the sharing or leveraging of resources. "We have found we can really extend and expand our ability to provide services by relying on our partners and fellow collaborators. We are better able to carry out our own department's mission as well, and I think other agencies are having the same experience." As for communication as the key ingredient, he said, the first challenge was to find a common language. "The court calls people defendants, we call them probationers, the treatment providers call them clients." Some of the participants had to learn what a violation of probation hearing is, and others what a therapeutic community is. It has also been a challenge to keep the collaborative focus up and down the line in spite of turf issues, philosophical issues, and differences in perception. Changes in leadership have been a special challenge in San Diego County. In the current time of stress and pressure on funds, Henley said, there is a tendency to develop tunnel vision, seeing only what is in one's own interest. There is also a need for transparency in systems—"Can you see what I'm doing and can I see what you're doing?" Finally, the best hope for improving collaboration is to "keep talking, evaluating, looking at what works, not being afraid of throwing away the parts that don't work, not being afraid of saying we made a mistake, of saying 'I was wrong, you were right.'"

Francine Anzalone-Byrd, Executive Director of Serenity House in San Diego County, said her treatment facility has about 90 beds for Proposition 36 clients, including 20 to serve those with dual diagnosis. She said she has been very involved with the providers association in the county, doing her best to work on conflict resolution within the collaborating group. The best way to meet the current fiscal crisis, she said, is to rely on the foundation that already exists and "learn how to get through some of the changes and hard times with the same respect that we worked so hard to build." For providers, she said, the focus has changed from just doing what they've always done, day after day, to learning more about science-based treatment and best practices. "I don't think we spend as much time in treatment programs just talking about the 12 Steps of recovery…It's more about the social support system that people need when they leave our programs." The shifting of resources currently taking place is bringing back old territorial issues, she said. "I would challenge everybody not to forget the interest of the clients—or defendants, no matter what you call them…We need to be very careful not to lose the trust and respect we've built with each other and not be afraid to deal with difficult issues through open and honest dialogue."

Ehukai Sako said she was a rarity as a probation officer in Contra Costa County since she has a background in treatment as a certified substance abuse counselor in Hawaii, where she worked in conjunction with a drug court for three years. When she was hired in Contra Costa, she was only the fourth probation officer in the county, with 130 caseloads per officer. More officers have since been added. As for Proposition 36 collaboration, she said there have been struggles over who was supposed to be doing what. Sako said the "role

reversal" described by Susan Bower has been evident. "The probation officer may take the treatment point of view and sometimes the treatment people take the jailer's point of view." In order to supply information to a judge about a Proposition 36 case, the probation officer stays in contact with the treatment provider and counselor, as well as those who do drug testing. If the case involves a client with a dual diagnosis, the officer also must get information from a psychologist. "It can be difficult if we don't have current or accurate information, so we depend a lot on communication with each other," she said. Besides going to court, probation officers meet with probationers to go over terms and conditions of probation, and attend weekly meetings with the county's Alcohol and Drug Services people to review current cases. They also have direct contact with treatment providers, make home visits, and accompany sheriff deputies to serve no-show people with warrants. The latter is occurring less often due to efforts to get probationers into treatment as soon as possible. A judge may be urged to incarcerate a defendant until a treatment slot is found. Probation officers may have to search for services available to probationers. Sako's caseload includes probationers who have come to Contra Costa from some other county where they committed a crime, and it is her responsibility to get them into treatment in the county where they live. "Every county does things differently, and I'm finding out how important networking is." She would like to create a book detailing how different counties handle Proposition 36 cases.

Lenny Williams of Alcohol and Other Drug Services of Contra Costa County said he supervises the Proposition 36 team as well as the "Access Unit." With a clinical background, he said he is still learning how to be an administrator rather than a clinician. He said he had found it easier to understand probation's point of view than treatment's point of view; things are more black-and-white in probation while there are varying philosophies in treatment programs. In one section of his county, the gang activity is so serious that collaboration is necessary to keep probation and treatment people safe when they are working with Proposition 36 clients. Coordination of Proposition 36 services in Contra Costa is the responsibility of a Recovery Gateway Unit, Williams said. His staff members are basically case managers, assuring that clients get the services they need both from treatment providers and probation. Early on, the county's Proposition 36 steering committee drew up a "standards of operation" document that describes each person's job. Still, there are times when there are crossovers. Treatment providers meet twice a month, and once every quarter there is a treatment-probation meeting to keep the collaboration alive, Williams said. "Collaboration is great in theory but it takes a lot of discipline and vigilance to maintain it," he continued. "I don't like to micro-manage, but if I have meetings with everyone, then I at least know what's going on." There are times when an adversarial relationship develops with public defenders that are determined to get a person out of jail. At provider meetings it may be discovered that what worked yesterday is not working today. "Our clients teach us what we need to know about treatment. You have to stay ahead of them a little bit, and that's a pretty daunting task." Meetings of treatment and probation people are held weekly at a

treatment site, and may serve as a multi-disciplinary team to review difficult cases, and the clients themselves may be asked to speak.

Vernon Cummings, program supervisor for the Center Point Treatment Facility in El Cerrito, said he has been in recovery for nine years and can attest that treatment works. Working in the west part of Contra Costa County, Cummings deals with difficult cases, including many with a dual diagnosis. The challenge for the Proposition 36 teams is to deal with the resistance often found in defendants, and to reduce the recidivism rate among offenders. It is necessary to find solutions to an individual's own problems flowing from his or her substance abuse. "Because many people don't make it the first time, we have relapse prevention groups…We have to collaborate and communicate with probation in order to get an individual's attention… At their orientation, it is made clear that they will be tested and that they have to pay treatment fees." Once clients have completed treatment, the goal is to encourage them to do the things necessary on a daily basis to remain focused on their recovery—"doing things that normal people do and learning to feel like human beings again." Cummings said probation officers may not know what is going on in an individual's life and the issues he is dealing with, and treatment people can communicate this information to probation. As for individuals in treatment, there is emphasis on getting to group meetings on time, getting their priorities straight, fulfilling a daily agenda of responsibilities and obligations. "We try to give them the tools to live their lives on life's terms."

Summing up, **Susan Bower** said it was clear that collaboration involves multiple levels and lots of work. "There is collaboration between the client and the treatment provider to develop a treatment plan--a roadmap of where they're going. There is collaboration among treatment, the court, probation and parole…The practice of one judge may be different from other judges in the county. There may be different philosophies among treatment providers. There may be differing philosophies among probation officers. But, we all carry our own side into the collaboration and we all depend on each other to make it work for the client." She noted the frequent mention of communication as an essential tool for effective collaboration, and the importance of having structured meetings bringing partners together. As for the "eye on the prize," she said she believed the prize is keeping the Proposition 36 effort going after 2006.

In the question period, **Paul Severson** of Amador County asked for more information on how Serenity House incorporates dual diagnosis treatment in its program. Anzalone-Byrd said the House hired a clinical director to develop a series of training sessions for the entire staff. The clinical director oversees all of the dual diagnosis services. "We have groups to specifically meet the needs of the dual diagnosis clients but also bring them into the larger services so they feel they are a part of the community." **Olga Hopkins** of El Dorado County raised the question of how to designate a client's residence for cost purposes when sentenced under Proposition 36 in another county and checks himself into

treatment in El Dorado County before any referral papers are received. Sako believes the chief probation officers are requesting that the department accept jurisdictional transfers, which means a judge would have to sign a release for transfer to the county of residence. Sako said, currently if someone commits a crime in her county and lives in another county, she contacts Alcohol and Other Drug Services (AODS) in the county of residence and arranges for the client to get an assessment in the receiving county. In the receiving county, AODS will be responsible for getting the person into treatment, but the probation officer in the original county must maintain contact with AODS and report to the judge on the progress of the case. "I have found that most counties prefer that I maintain contact with AODS and not the treatment provider directly," she added. Further discussion indicated there are inconsistencies in how such problems are handled around the state.

Another questioner asked Chris Henley how probation officers in San Diego County have met the challenge of working with AODS while remaining accountable to the courts. Henley said his probation department has hired alcohol and drug specialists who work with probation officers and handle the bulk of the intake and screening process. "They have been a tremendous asset in being able to overcome some of the difficulties in getting information from providers in the timely fashion needed in order to send it to the court," he said. Cummings pointed out that Contra Costa County assigns two probation officers exclusively to dual diagnosis clients, while two case managers under contract from a mental health agency also work with the clients.

Sanctions and Rewards

Douglas Marlowe, JD, PhD, Director of Law and Ethics Research at the Treatment Research Institute at the University of Pennsylvania, addressed the luncheon session, discussing the effective use of sanctions and rewards in dealing with offenders in treatment. He explained some basic principles of behavior modification--how sanctions and rewards can be administered through giving something or taking something away. Using as an example his joking attempt to embarrass a member of the audience, he pointed out that punishment—what he had just done—can have negative side-effects, such as making people want to avoid him. As an alternative, he suggested that he might please the audience by cutting his talk short, which is "negative reinforcement," or taking away the sanction of having to listen to his entire talk. Then, he suggested that if members of the audience made appreciative eye-contact with him, he might give them an M&M—a positive reinforcement. "All of these things have the same effect. The goal is to get you to pay attention. In one case, I'm administering a sanction while in another I am taking a sanction away; and, in the third case I am giving a reward." Further, he could take a reward away as a form of punishment--a response cost such as getting a speeding ticket and having to

pay a fine. Finally, "extinction" is taking away a reward that had been given earlier.

Whatever the sanctions or rewards, he continued, the most important factor is *certainty.* In behavior modification, there are ratios of rewards to positive behaviors or ratios of sanctions to infractions. If the reward or sanction results every time, the ratio is one-to-one, expressed as a fixed-ratio or FR1 schedule. If the reward or sanction occurs only every fifth time or every tenth time, the schedule is FR5 or FR10. "The closer you get to an FR1 schedule, the greater the effects on behavior," he said. For example, when a person in drug treatment turns in a positive urine sample, it is doubtful this is the first and only time he or she has used drugs, so the ratio is more like FR5 or FR10 or higher. An excellent example of an FR1 behavior modifier, he said, is drugs. "Take the drug, get the reward…that's an FR1 positive reinforcement schedule." He pointed out that later a drug-user might take drugs to avoid the pain of withdrawal, with the drug use then becoming an FR1 negative reinforcement. "Drugs are brilliant behavior modifiers. They're extremely certain, and you guys are trying to compete with that." He emphasized the importance of closely monitoring persons in treatment so that the ratio of positive or negative reinforcement can be kept as close as possible to an FR1 schedule. It's a case of negative reinforcement, he added, when an offender is given a "second chance" because of his otherwise good behavior rather than the prescribed punishment for a failure. "If you're going to give people second chances, it better be contingent on something they've done to make up for it. Otherwise, all you're doing is making your punishment less effective."

After certainty, the second most effective factor in affecting behavior is *celerity*, Marlowe continued. Celerity, he explained, refers to the immediacy or rapidity with which a sanction or reward is carried out. "Time is not on your side," he said. "The effects of sanctions or rewards begin to decline within one hour of the time the client engages in the behavior that you either want or don't want." The effect of the delay is exponential, so that a ten hour delay is not twice as bad as five hour delay but 25 times as bad, or five squared. A client who has a dirty urine sample on Monday but carries out appropriate behaviors the rest of the week, and is sanctioned for drug use the following Monday, is not receiving the full effect of the sanction. The intermediate behaviors are "interference" with the process. As an aside, Marlowe stated that some recent drug court research had indicated that high-risk clients are more likely to continue drug-free behavior when they appear before the judge on a regular, predetermined schedule than if they are brought before the judge only when sanctions are due.

The third most important factor is *fairness.* Research has shown that offenders are more likely to accept a sanction if they consider it to be fair—if they think they had an opportunity to be heard, if they think the judge treated them the same way another person would be treated under similar circumstances. "Our criminal justice system has evolved in such a way that when it operates as it was

intended to, issues of equal protection and due process are psychologically healthy," he said. The first issue with fairness is proportionality. "If you administer a sanction or reward that is out of proportion to the target behavior, it will not improve the client's behavior but may actually make the behavior worse." Another issue is treating similar people in similar circumstances the same. Marlowe gave the example of two clients coming before a judge after dirty tests for drugs. Client No. 1 is assigned to more counseling sessions and told to write an essay. The judge puts Client No. 2 in jail for the weekend. Client No. 2 feels angry and mistreated, and his behavior may become worse rather than improve. When sanctions are more severe in one case than another, it is important to explain to the offender why his circumstances are different and warrant a more severe sanction. As for treating similar people the same, the fact that some clients are more impaired or less capable than others, it is a good idea to put them in a separate track or program. Clients also should be given advance notice of what is expected of them, he continued. Rather than telling them to act "responsibly" or "more maturely," they should know the specific behaviors that are expected. It is also important to punish the act, not the individual. "We should punish people on the basis of their behavior, not who they are."

He cited *magnitude* as the fourth most important factor affecting behavior. If certainty, celerity and fairness are present, the effect of magnitude may be minimal, he pointed out. Further, one should not increase the magnitude of a sanction to make up for any lack of certainty, celerity or fairness. This would violate the principle of proportionality. Using sanctions of insufficient magnitude over a period of time may result in habituation; and, if harsher sanctions become necessary later, they are likely to be ineffective. "This is called the ceiling effect. You're out of ammunition, and your client knows you're out of ammunition."

Marlowe went on to explain the difference between short-term or proximal behaviors and long-term behaviors. Going to treatment, delivering urine specimens, developing risk management plans--these are the kinds of behavior that should be adopted rather quickly by those entering treatment. Higher magnitude sanctions may be necessary for those who do not exhibit these short-term behaviors. But longer term behaviors, such as staying drug free, getting a job, or completing education, take a longer time to achieve; moreover, high-magnitude sanctions for failure are likely to produce the ceiling effect. Lower magnitude sanctions are more appropriate at this stage. Praise can be a very effective positive reinforcement. An array of rewards also can be offered for a desired behavior, like getting a chance to pull prizes from a fishbowl, or the "fishbowl effect." Gift certificates or other things of value can be the prize. Many drug offenders tend to be "defiant quitters"--individuals who give up when the going gets tough, Marlowe continued. These clients with "learned helplessness" are likely to be angered by sanctions or they may become retaliatory when they don't receive rewards. To make this less likely to happen, the prospective sanctions or rewards should be predictable and controllable, based on specific

behavior, including an individual's capability to understand the consequences of his behavior and to control it.

Marlowe then discussed the typical target behaviors in drug treatment— stop using drugs, get a job, get a GED, spend more time with families, and other expectations. "Do you shoot at all those targets at the same time or do you line them up?" In the drug court programs with which he is familiar, he said, programs are usually phased, with different targeted behaviors as treatment progresses from entry through after-care. This leads to a "first things first" approach to desired behaviors, with sanctions and rewards adjusted accordingly: higher magnitudes for proximal behaviors and lower magnitude for distal behaviors. He pointed out that it may be real easy to get sanctions—for instance, for failing to show up for treatment or for having a dirty urine test—but very hard to receive such rewards as the removal of charges, which come only after a long term of compliance. This discrepancy can be overcome by making it possible to earn rewards with the same frequency as sanctions throughout treatment, even if the rewards are of lesser magnitude.

There is some truth in the old adage that you can catch more flies with honey than with vinegar, Marlowe said. Focusing on positive reinforcement can make a treatment provider's life easier because negative sanctions have more negative side effects. "If you have to rely on punishment, you have to rely on it forever." One problem is that people try to avoid sanctions, such as failing to show up for a test because they know it will be dirty. Another problem is over-generalization. If too much time elapses between the behavior being sanctioned and the application of the sanction, the reason for the sanction may be confused. "There are all sorts of things taking place at the time of the sanction, and those things get paired with the sanction." A superstition, such as the belief that a judge is in a bad mood on Thursdays, can cloud the real reason for a sanction being applied. Further, positive reinforcement can be a better motivator because it identifies a reward with a specific desired behavior. Punishment may have to go on forever to be effective. A "graduation" from a program may mean that there will be no more sanctions and, therefore, the once-sanctioned behavior is again permissible. By giving a client naturally reinforcing behaviors—spending time with a family, getting a job, going back to school—these positive behaviors will compete with the idea of drug use, which would no longer be punished.

A pitfall in using the "carrot" instead of the "stick," Marlowe continued, is that it may give the impression of coddling, which can be a political liability. But another pitfall, complacency, can result from praising behavior that does not really deserve praise. "If you're rewarded for a substandard performance, your performance will not go to the next level. You need to raise your expectations over time to improve the behavior." Finally, there is a problem of entitlement. "If I get rewarded over and over for a substandard performance, after a while I start to feel entitled to those rewards. Then if someone stops giving them to me and tells me I have to work harder, I'll feel that something is being taken away from

me that I had coming to me." There is some debate over "extrinsic" and "intrinsic" rewards, based on the question of whether someone should be rewarded for doing something that ordinary people do without rewards, such as abstaining from drug use. They are doing it for the reward, not for themselves. Marlowe said the research shows that if you start with extrinsic rewards for behaviors that are naturally rewarding in their lives, the rewards eventually will become intrinsic.

Summing up, Marlowe reiterated the importance of certainty, celerity and fairness in efforts to change behavior through sanctions and rewards, emphasizing especially the need to treat individuals the same unless there is a clear reason for doing otherwise. "Procedural fairness, equal protection, and due process are very, very important things," he said, adding that high magnitude reinforcement and punishment are appropriate for proximal behaviors and low magnitude for distal behaviors. "Make sure that your goals are predictable and attainable so your clients avoid issues of unfairness and learned helplessness. Focus as much on rewards for desired behaviors as on punishment for undesired behaviors, and increase your expectations over time so you avoid issues of complacency and entitlement."

Judges Panel

Judge **Stephen Manley,** a member of the Judicial Council of California Drug Courts and a Superior Court judge in Santa Clara County, introduced a panel of judges to answer questions from conference participants about the judicial role in the Proposition 36 implementation effort. He pointed out that the way Proposition 36 works in the courtroom does not always meet the tests of certainty, celerity, and fairness described by Stephen Marlowe in the previous presentation. "This is not always possible, given the constraints that are placed upon us," he said. The language of Proposition 36 also is a constraint on employing the principles of recovery management explained the previous day by Dr. Deitch.

Judge **Manley** then introduced the panel: Judge **Nancy Cisneros** of the Fresno County Superior Court, Judge **John Darlington** of the Nevada County Superior Court; Judge **Joseph O'Flaherty** of the Placer County Superior Court, Judge **Gary Ransom** of the Sacramento County Superior Court, Judge **Ana Maria Luna** of the Los Angeles County Superior Court, and Judge **Doris Shockley** of the Yolo County Superior Court.

Manley stated a number of participants raised the question of whether judges need some training in order to exercise their responsibilities under Proposition 36. Training such as educational program for judges, court executives, district attorneys and public defenders has been created, with sessions scheduled December 9 in Irvine and December 11 in Sacramento. It is critical, he said, to

dedicate calendars and good judges with the experience and understanding to work with drug addicts.

The first question posed to judges on the panel was: name one thing you have done to make Proposition 36 more successful. Cisneros said she hugs clients when they graduate. Darlington said participation increased when his county switched from a probation system to a drug court system for Proposition 36. O'Flaherty said giving clients praise when praise is due has helped with success. Ransom said he lets clients know that "I give a damn" about their problems. Luna said she notes the improvement in clients and gives them appropriate praise. Shockley commented that two dedicated probation officers help the court understand treatment issues arising in violation cases coming before her.

Manley asked Darlington to explain more fully what led up to a jump in Proposition 36 participation in his county. Darlington said one thing was having the treatment assessor, the probation officer, the case manager and occasionally treatment providers in the courtroom when an offender enters a plea. The offender is told to see all of them before he or she leaves the courthouse. Previously, many of them simply "got lost in the system." Shockley said there are rarely contested hearings in her court due to an effort to overcome the traditional adversarial relationship between the district attorney and public defenders. Appellate court decisions have helped clarify procedures that once produced arguments over one issue or another.

On the one hand, when treatment people make recommendations about the modality of treatment and other issues, why don't judges always follow them? Even when clients are found to be unamenable to treatment, a judge sometimes will keep them in the Proposition 36 process. On the other hand, even a minor relapse can prompt a judge to consider it a violation of probation. Shockley noted that in her county treatment people are not participating in court hearings under Proposition 36 while they do so in the traditional drug court cases. O'Flaherty said he believes in letting the professionals do their job; and, when the professionals express a consensus, he almost always will follow the recommendation. Cisneros agreed with O'Flaherty. To argue about every treatment plan would "make the calendar unworkable." She said the Adult Substance Use Survey (ASUS) treatment tool was used to develop the initial recommendation, with ongoing information from treatment providers on how the client is doing.

Another questioner raised the issue of when "completion of treatment" occurs. Ransom said all the interested parties in a case meet, to do an evaluation, and make recommendations prior to his Friday morning session for Proposition 36 cases. The same people also meet together monthly. "I told them that if they could not agree on what it takes to graduate, there would be no graduations." The team came up with a system to make that determination, and once it is made, he accepts it. O'Flaherty said he almost never goes against a consensus,

and only steps in when there is a disagreement, in which case he tries to get the parties to accept a compromise. Shockley said she may ask for more information when graduation is recommended but the individual has been out of treatment and not subject to testing for a period of time. Manley observed that there are differences on this issue among these and other judges. He pointed out Judge Shockley, who has been working with drug offenders for many years and probably knows more about treatment than judges new to the subject. Yet, treatment people are not as involved in procedures in Proposition 36 cases as they are in traditional drug court cases. Why? "Time and money," Shockley replied. There is not enough of either to staff what amounts to another drug court. Because of its location, her county also is burdened with monitoring a lot of out-of-county cases.

This led to another issue: the burden of inter-county transfers. Manley explained that the Judicial Council is supporting legislation that would place supervision in the hands of the judge in the county of residence, i.e., where the treatment would take place. The legislation is expected to receive final approval early in the next session of the Legislature. Luna also pointed out that there is no "master list" of judges handling Proposition 36 cases in the various counties. However, if there is an inter-county situation, there is a list of the contact person for the lead agency in each county. Ransom pointed out that judges have decided not to agree to inter-county transfers until the bill is passed next year.

The next question: Is there a way to keep someone in treatment after a third violation? Do you withhold finding the third violation? Do you send the case to drug court? Cisneros said in her county some cases are sent on to drug court, which provides a different level of treatment and different guidelines for sanctions. "But we have struggled with getting to the third violation with straight Proposition 36 clients," she added. Some have been sent to prison. "Our concept of amenability has been framed around what we have available," she said, pointing out that treatment providers generally feel there are few people who are wholly unamenable to any form of treatment, but the kind of treatment they need may not be available locally. Ransom said he feels that by the time a person reaches a third violation there have actually been a lot more violations that went undetected. Rarely, he added, a treatment provider might recommend that a person otherwise due for a third violation be given one more chance. O'Flaherty said his team came up with a solution giving clients five chances instead of three. "We now file immediate VOPs on the first and second violations. When we get to the third, we have a hammer on them. They must agree to a new informal sanction schedule that provides for up to five violations or they're out." He believes there is no "magic number" of permissible violations applicable to all cases and the drafters of Proposition 36 happened to pick three. Some offenders have flunked out of a number of different programs before they finally come around.

Manley went on to point out that there can be a great deal of inconsistency among judges in the same court system when it comes to their approaches to Proposition 36. "What happens in Long Beach may not be what happens in Santa Monica." A conference participant raised the question of why judges can't "get their act together" and be consistent in these policies. Luna said the answer could be expressed in two words-- judicial discretion. With the number of judges in Los Angeles County, there are complaints at both extremes—that some judges are too quick to "pull the trigger" on violations, while others are too permissive. "We try to manage it by feedback from treatment," she explained. In addition, this feedback comes through regional quarterly meetings in various service planning areas. Manley then commented that, in counties where cases are randomly distributed to judges, there is more likelihood of inconsistencies than in counties like Los Angeles and Santa Clara where there is a substantial number of judges doing Proposition 36 and where they are receiving training and meeting together to exchange ideas on how they can improve their effectiveness. "If there is one lesson we have learned it is that if you want inconsistency, then just throw the cases out there to any judges who hear criminal cases. Dedicated calendars and trained judges who have an understanding of addiction and want to learn more can do a much better job."

Five participants asked the same question: What about sanctions? One person wondered: What's wrong with two days in jail if you fail to do what you're asked to do? O'Flaherty discussed the five levels of violation in his county, which are stipulated in advance and considered non-negotiable. On the first, the person gets one day of community service. On the second, three days of community service. On the third, seven days in jail. On the fourth, 14 days, with no alternative sentencing and no good time. In the interest of immediacy, an effort is made to get the offender into jail as soon as possible. "It's worked pretty well so far," O'Flaherty remarked. Cisneros said she thinks a fundamental weakness of Proposition 36 is that it includes a directive that it not follow the drug court model nor use a system of graduated responses such as "flash" incarcerations. Frequently, she added, you don't get the client's attention until a probation officer recommends a term in CDC or some other punishment. Luna commented that, in Los Angeles County, a client may be remanded to custody for a period of time under an agreement worked out by the team.

Some questions dealt with the Guzman case, Manley reported. The case has opened the possibility of a larger number of offenders involved in non-drug offenses becoming qualified for treatment under Proposition 36. Pending a Supreme Court decision on an appeal, no California courts appear to be following the Guzman precedent. There was also a discussion of the "first Guzman case" involving policies toward defendants who have disappeared for long periods after being referred to treatment. On another issue, all of the judges on the panel agreed that they see no reason why an offender who is in the United States illegally should be excluded from treatment under Proposition 36.

After hearing the success stories of the Proposition 36 treatment participants, attendees left the conference feeling gratified. Their efforts-in a variety of programs related to SACPA-help continue to make Proposition 36 work. By building on past success, we may continue to seek new and innovative ways to provide needed services to our clients.

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